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SEP 04 2015

September 3, 2015

DIV. OF OIL, GAS & MINING

**VIA FIRST CLASS MAIL**

Utah Division of Oil, Gas & Mining  
Attn: Dana Dean, P.E., Associate Director, Mining  
Utah Department of Natural Resources  
1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84114-5801

VAN COTT, BAGLEY,  
CORNWALL &  
MCCARTHY, P.C.

ESTABLISHED 1874

**Re: Pine Ridge Rock Products Mine  
Permit S/057/0010, Weber County, Utah**

Dear Ms. Dean:

I represent Pine Ridge Rock Products ("Pine Ridge"), the operator of the Pine Ridge Rock Products Mine, which is permitted to commence small mine activities by your agency under permit number S/057-0010. It has come to my attention that on behalf of the landowner, Ms. Kathryn Steffey of Smith Hartvigsen, PLLC, by letter, dated August 26, 2015 (hereinafter "**Steffey Letter**"), has written to request the permit be "revoked immediately." Furthermore, Ms. Steffey's letter indicates that certain statements in my client's permit application are "erroneous." I am writing to address these allegations.

Initially, the parties are in communication and Pine Ridge anticipates they will find a resolution on what appears to Pine Ridge to be a misunderstanding between the landowner and Pine Ridge regarding the scope of its operations on these lands. During the interim period and until this is resolved, Pine Ridge has committed to Ms. Steffey, and hereby commits to the Division, that it has limited its operations and will continue to limit its operations under this permit to those activities that comply with the landowner's more-limited understanding of the parties' agreement. Specifically, Pine Ridge is conducting only the removal of surface boulders and necessary reclamation from its activities on the land until such future time as it and the landowner agree in writing to expanded operations and Pine Ridge secures the necessary permits from the County and State.

Regarding the request that the Division immediately revoke Pine Ridge's permit, as you are aware, the Division does not have that authority. The Division has a well-developed body of regulations that govern when, if, and how its permits can be revoked that protect Pine Ridge's rights to Due Process. The regulations provide for adequate notice and informal hearing to the permittee. Pine Ridge has no doubt the Division will follow its regulations

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insofar as addressing and responding to Ms. Steffey's request.

In that vein, my conclusion based on a review of the Steffey Letter and the pertinent regulations is that the letter is insufficient to constitute a request for agency action concerning the above-referenced permit. On the chance you conclude otherwise, Pine Ridge hereby requests a hearing on the matter.

Moreover, the landowner's request to cancel the permit is inconsistent with their statement that they have authorized the activities that require this permit in the first case. If the request to revoke the permit was granted, it would result in shutting down the activity to which the landowner does not object. The landowner has indicated to you that the scope of permissive activity given to Pine Ridge was to "haul rocks" or "the removal of surface boulders" consistent with Pine Ridge's Weber County Conditional Use Permit, but not "mining activities." While "mining activities" is not defined in the letter, "mining operations" is a defined term in the regulations. See Utah Admin. Code R647-1-106 (2015). The current definition of "mining operations," in pertinent part, is:

[T]hose activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including, but not limited to, surface mining and the surface effects of underground and in situ mining; on-site transportation, concentrating, milling, evaporation, and other primary processing. "Mining operation" does not include: the extraction of sand, gravel, and rock aggregate; ... or activities which will not cause significant surface resource disturbance and do not involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

*Id.* Pine Ridge's operations – removing boulders and hauling rocks – qualifies as a mining operation. Pine Ridge must have the DOGM permit to conduct the operations that the landowner is currently representing are acceptable. Accordingly, the landowner's request to cancel the permit is inconsistent with their goal to allow the ongoing operation.

As to the last issue, Pine Ridge denies Ms. Steffey's assertion that any statement in the permit application is "erroneous" and that statement is belied by the Steffey Letter. The landowner has "given ... permission to haul rocks, consistent with a CUP issued by Weber County in 2009[.]." The landowner, therefore, has authorized mining operations as that term is defined by the State and used before this agency. Also, at the time Pine Ridge submitted its Notice of Intention to Commence Small Mining Operations, it was its understanding that the landowner understood and was in complete agreement with Pine Ridge's operational plans. It was not until very recently that Pine Ridge learned otherwise. Accordingly, Mr. Lockwood's representation to the Division was not erroneous, but was in fact accurate at the time and remains accurate for the current and on-going operations.

Finally, until further notice, please copy me on any future correspondence between your office and either Pine Ridge Rock Products, Karl Jensen, Ms. Steffey, Weber County, or Cache County concerning this mine.



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Should you have any questions regarding this letter or if I can be of assistance regarding the Pine Ridge Rock Products Mine, please do not hesitate to call me at 801-237-0353.

Very truly yours,



Matthew S. Brahana

cc: Dan Lockwood/Pine Ridge Rock Products  
Ms. Kathryn Steffey

4850-6509-1367, v. 1